IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

COPC No. 5 of 2007

Date of Decision : 9.10.2007

Rajinder Kaur & another …Petitioners.

Versus:

Yashoda Devi & Others …Respondents.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] No

For the petitioners : Mr. Rajiv Rai, Advocate

For respondent No.1 : Mr. D. Dadhwal, Advocate.

For respondents No.4 : Mr. Sandeep Sharma, Assistant Solicitor General of India.

For respondents 5 & 6 : Mr. Ashok Chaudhary, Addl. A.G.

Sanjay Karol, J (Oral).

Learned counsel for the petitioners has requested for an adjournment. The same is vehemently opposed and accordingly turned down. The matter is being heard and decided on merits.

In Civil Suit No. 28 of 2003, this Court passed an interim order dated 23.6.2003 restraining the defendants, i.e. the present petitioners and respondent No.1 from selling,

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

transferring or encumbering the suit property and a direction that status quo with regard to possession be maintained. This order was confirmed by the Court on 6.1.2006 with liberty given to the defendants therein to encumber the suit land after seeking permission of the Court.

In the instant case, respondent No.2 is the Secretary (Defence), Govt. of India and respondents No.3 & 4 are the Officers of the Indian Army. Respondent No.5 is the Deputy Commissioner, Kangra and respondent No.6 is the Tehsildar, Palampur.

In public interest and in order to meet the requirements of the Indian Army, certain talks took place between respondent No.1 on the one hand and the Army authorities on the other hand, for transfer of entire land holding belonging to respondent No.1, including the one which was the subject matte of the suit. For the said purpose, respondent No.1 along with some of the co-sharers submitted their affidavits with the Station Headquarters, Indian Army, Palampur, expressing their intention to sell their entire land holding to the Army authorities by way of acquisition in accordance with law. This was done in order to show her bonafides. As per the affidavit filed by respondent No.1, she is 95 years of age and she had filed the affidavit as the land of the replying respondent is in the center of the land of the villagers whose land is also sought to be

acquired by way of compulsory acquisition for meeting the requirements of Indian Army.

It is this action of respondent No.1, which is stated to be an act of violation of the orders dated 23.6.2003 and 6.1.2006.

In my view, expression of an intention to sell the land by way of acquisition in accordance with the provisions of law to the army authorities in itself would not amount to violation of the orders passed by this Court necessitating action for initiation of the Contempt proceedings.

The main suit along with the application stand dismissed as withdrawn in terms of the orders dated 25.5.2007 passed by this Court and the interim orders stand vacated.

For all the aforesaid reasons, the present petition is dismissed. Notice issued to the respondents is discharged.

CMP No. 70/2007

In view of the dismissal of the main matter, this application also stands dismissed.

(Sanjay Karol),
Judge.

October 9, 2007
(rana)